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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,770	08/04/2003	Jeremy J. Gauthier	45781.78960-001	5112

7590 10/18/2004

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EXAMINER
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BURNHAM, SARAH C

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/633,770

Applicant(s)

GAUTHIER ET AL. *ST*

Examiner

Sarah C. Burnham

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed; may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 17-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 23-26 is/are rejected.
- 7) ☒ Claim(s) 7-16 and 27-29 is/are objected to.
- 8) ☒ Claim(s) 1-29 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/4/03</u> . | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-16 and 23-29, drawn to an articulating head restraint, classified in class 297, subclass 408.
  - II. Claims 17-22, drawn to the method of manufacturing an articulating head restraint, classified in class 29.
2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the method as claimed does not specify that the slave bracket and cam be "fixedly" attached to the bracket and armature respectively.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Mr. J. Ray Wood on September 29, 2004 a provisional election was made without traverse to prosecute the invention of Group I,

claims 1-16 and 24-29. Affirmation of this election must be made by applicant in replying to this Office action. Claims 17-22 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Information Disclosure Statement***

5. The information referred to in the information disclosure statements filed on August 4, 2003 has been considered as to the merits.

***Drawings***

6. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings appear to be informal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-5 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hatta (4,576,413). With respect to claims 1 and 23, Hatta discloses an articulating head restraint comprising: a bracket (2), the bracket (2) having a slot (22); an armature (4) contained within the bracket (2); a cam (5) having a lock acumination (51b)(51c) and a stop acumination (51a), the cam fixedly (5) attached to the armature (4); and a slide (7) attached to the bracket (2) by way of pin (71), the slide (7) moveable within the slot (22) by way of sliding pin (73) to a locked position so that, when the slide (7) is in the locked position, the lock acumination (51b)(51c) is in contact with the slide (7) thereby preventing rotation of the armature (4). The stop acumination (51a) prohibits movement of the armature.

With respect to claim 2, the slide (7) has an unlocked position (when point (72) is in contact with element (51d) such that when the slide (7) is in the unlocked position, the lock acumination (51b)(51c) is not in contact with the slide (7).

With respect to claim 3, a torsion spring (8) is circumferentially disposed about the armature (4) (see figure 3) and configured so as to apply a torque on the armature tending to move the armature to a stowed position.

With respect to claim 4, the articulating head restraint further comprises at least one rod (a1) for attaching a bun (a).

With respect to claims 5 and 24, articulating head restraint further comprises a coil spring (74) attached to the bracket (2) and to the slide (7) by way of pin (73) and configured so as to tend to pull the slide to the locked position (column 3, line 18-20).

With respect to claim 23, the head restraint has a slave bracket (6), the slave bracket having a slave bracket hole (in the bottom thereof, see Figure 4).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 6 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hatta (4,576,413) in view of Azar et al. (6,485,096). Hatta reveals all claimed elements with the exception of a cable attached to the slide such that when a force is applied to the cable the slid tends to move into the unlocked position.

Azar teaches the use of a cable (100) coupled between the seat cushion and the guide plate mechanism (90) for automatically sliding the adjustment mechanism between a first position pivoting the head restraint to a normal position and a second position pivoting the head restraint to a forward angles position.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use a cable to move slide (7) versus force applied to the head restraint bun. Such a modification would allow the seat occupant to position the headrest with a push of a button versus placing strain on his/her neck to adjust the head restraint.

***Allowable Subject Matter***

11. Claims 7-16 and 27-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Holdamph et al. (6,702,385); Watadani (6,499,805); Robinson (5,681,079); Freber (4,682,817); Ptak (6,074,011); Saito (4,761,034); Andersson (5,590,933); Ikeda et al. (6,045,181); MacAndrew et a. (6,024,405).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 703-305-7315. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCB  
October 4, 2004

  
**Peter M. Cuomo**  
**Supervisory Patent Examiner**  
**Technology Center 3600**